IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL MISC. PETITION NO. 66/2007
(Madan Gopal V/s State of Rajasthan & Anr.)

Date of Order : 11/07/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Umesh Shrimali for the petitioner.
Mr. Ashok Upadhyay, P.P.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 12.10.2006 passed by Additional Sessions Judge No.3, Jodhpur (for short 'the revisional court' hereinafter) in Cr. Revision No.52/2006, whereby the revision petition filed by the petitioner against the order dated 01.5.2006 passed by Additional Chief Judicial Magistrate (Economic Offences) Jodhpur (for short 'the trial court' hereinafter) in criminal complaint No. 03/05, was dismissed.

Heard learned counsel for the petitioner and public

prosecutor for the State. Carefully gone through the orders impugned passed by courts below.

From the order impugned, it appears that a complaint was filed by the non-petitioner No.2 against the petitioner under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act' hereinafter). The complainant appeared and made a statement. The complainant was also cross-examined to some extent, however, the cross-examination remained incomplete. Thereafter, the complainant appeared before the trial court on several occasions. Even the opportunity to cross-examine the complainant was granted on costs, but the petitioner failed to avail the opportunity to cross-examine the complainant. The order of the trial court speaks in volume that on various occasions, the complainant came and remained present in the Court for remaining cross-examination, but the petitioner did not cross-examine the complainant and withheld the trial of the case. The trial court ultimately closed the cross-examination.

In my view, from the order of the trial court, it is clear that the petitioner was afforded several opportunities to cross-examine the complainant and to some extent he has also cross-examined him and subsequently failed to cross-examine the complainant on several occasions. In the circumstances, therefore, it cannot be said that the orders impugned suffer from

manifest error or illegality. On the contrary, allowing such an application would amount to abuse of the process of the Court for the reason that the complainant has been made to suffer a lot on account of the delayed tactics. Allowing the application would therefore, amount to perpetuate the injustice to the complainant.

In this view of the matter, no case for interference is made out. The criminal misc. petition is therefore, dismissed.

(H.R.PANWAR),J.

rp